

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

IN THE MATTER
OF
LOCAL CIVIL RULES

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) G.O. 01-02 ✓
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FILED

MAR 26 2001

Phil Lombardi, Clerk
U.S. DISTRICT COURT

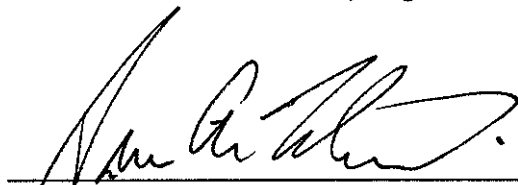
GENERAL ORDER

EFFECTIVE this date, current Local Civil Rules 16 and 26 are hereby vacated in their entirety and replaced on an interim basis with the attached interim LCvR 16 and LCvR 26. Permanent Local Civil Rules 16 and 26 will be circulated to the bar for review and comment upon completion.

IT IS SO ORDERED this 23rd day of March, 2001.



TERRY C. KERN, Chief
United States District Judge



SVEN ERIK HOLMES
United States District Judge

LCvR16.1 Pretrial Procedures.

(a) Scheduling and Planning.

1. **Joint Status Report.** In all cases, trial counsel for all parties, and pro se parties, if any, shall confer and prepare a Joint Status Report for submission to the Court, in accordance with FED. R. CIV. P. 26(f), using a Joint Status Report form available in Court Clerk's office. The Court will ordinarily order the filing of a Joint Status Report by a date certain. However, if the Court fails to order the submission of a Joint Status Report by a date certain, the Report shall be submitted no later than 120 days from the date the case was filed, or 90 days from the date the case was removed. For purposes of preparing a Joint Status Report, counsel, and pro se parties, if any, shall confer at least 14 days prior to the date the Report is to be submitted.

2. **Required Attendance at Conference.** Counsel with authority to make appropriate decisions and pro se litigants shall attend any conference required by the Court. When justified by the circumstances, the Court may allow counsel or pro se litigants to participate in such conference by telephone. Pro se litigants and counsel shall be prepared to discuss all relevant matters enumerated in FED. R. CIV. P. 16(c).

(b) Pretrial Responsibilities.

1. **Preparation of Status Reports, Final Pretrial Orders, and Other Orders.**

(a) Unless otherwise ordered by the Court, counsel for the plaintiff, with full and timely cooperation of other counsel and pro se parties, is responsible for preparing, obtaining approval of all parties, and furnishing the Court any status reports, pretrial orders or other orders required by the Court or these local rules.

(b) The clerk who keeps the minutes of the scheduling and planning conference shall have forms available, whereby the time and/or date fixed by the Court for the performance of specified duties may be inserted. Upon request, counsel will be supplied with a copy of such form so that they may make their own notations of deadlines and of other orders prescribed by the judge presiding over the conference. Such executed form, when approved by the Court and filed, shall constitute the order of the Court as to such schedules without the necessity of filing any other order to the same effect. Unless otherwise directed by the assigned judge, the form and content of a jointly prepared, proposed, final Pretrial Order, conforming to the sample form, shall be tendered to the Court by plaintiff's counsel seven (7) days in advance of the pretrial conference, unless otherwise ordered by the Court. Plaintiff's counsel shall provide to the Court copies of the Final Pretrial Order, sufficient to supply all parties with a file stamped copy.

2. **Default.** Failure to prepare and file a required Joint Status Report, failure to comply with the Final Pretrial Order, failure to appear at a conference, appearance at a conference substantially unprepared, or failure to participate in good faith may result in any of the following sanctions: the striking of a pleading, a preclusion order, stay of the proceeding, default judgment, assessment of expenses and fees (either against a party or the attorney individually), or such other order as the Court may deem just and appropriate.

LCvR16.2 Settlement Conferences.

(a) **Purpose.** The purpose of the settlement conference is to permit an informal discussion between the attorneys, parties, and the settlement judge on every aspect of the case bearing on its settlement value in an effort to resolve the matter before trial.

(b) **Referral and Scheduling the Settlement Conference.** All civil cases set on a trial docket are automatically set for settlement conference before the settlement judge. Also the Court may, upon its own motion or on the request of any of the parties, set a settlement conference at any practicable time. Form settlement conference orders shall be available from the Court Clerk. The terms of the settlement conference order govern the procedures for the settlement conference. The assigned district judge may, in his or her discretion, require that the parties pay for a settlement conference in any reasonable manner or amount.

(c) **Settlement Judges.** A district judge other than the judge assigned to the case, a magistrate judge, or an adjunct settlement judge designated by the Court, will normally preside at the settlement conference. The settlement judge will take no part in adjudicating the case subsequent to the settlement conference. Adjunct settlement judges shall be selected by the Court from among members of the bar in good standing and chosen based upon their expertise, experience, actual and apparent impartiality, reputation for fairness, training, and temperament. They shall be invited to serve without compensation and commit to conduct a minimum of six settlement conferences per year. Any party or counsel of record may move to disqualify the assigned settlement judge pursuant to 28 U.S.C. § 455, other applicable law or professional responsibility standards. No adjunct settlement judge may be called as a witness, except as requested by a judge of this Court. In that instance, the adjunct settlement judge shall not be deposed, and shall testify as the Court's witness. In cases where the settlement effort is expected to be extensive, or in connection with discovery matters, the Court may appoint an adjunct settlement judge as a special project settlement or discovery judge, and order the parties to pay

for his or her time at a reasonable hourly rate. Such payment shall be apportioned between the parties as agreed, or by the Court on an equitable basis.

(d) **Attendance Requirements.** The lead attorney who will try the case for each party shall appear, and shall be accompanied by one with full settlement authority. The latter will be the parties if natural persons, or representatives of parties which are not natural persons, but may not be counsel (except in-house counsel) or a person who is not directly or actively associated with the party or parties. Other interested entities such as insurers or indemnitors shall attend and are subject to the provisions of this Rule. Governmental entities and boards shall send a representative and counsel who, together, are knowledgeable about the facts of the case and the governmental unit's or board's position, and have, to the greatest extent feasible, authority to settle.

Only the settlement judge may excuse attendance of any attorney, party or party representative. Any party excused from appearing in person shall be available to participate by telephone, if required. Failure to attend the settlement conference or failure to cooperate fully, may result in the imposition of sanctions in accordance with LCvR16.1(b)(2) and FED. R. Civ. P. 16(f).

(e) **Governmental Entities.** In the event a governmental entity which is a party determines that it will be unable to provide a representative with full settlement authority at the settlement conference, the governmental entity shall promptly move for leave to proceed with a representative with limited authority. The motion shall be filed and delivered to the settlement judge no later than eleven (11) days prior to the conference and shall contain: (1) the reasons which make it impracticable for a party's representative to appear with full settlement authority;

(2) a detailed description of the limited authority to be exercised at the conference; and (3) alternative proposals by which full authority may be exercised at or subsequent to the conference.

Upon consideration of the motion, the settlement judge may allow the governmental entity to appear with limited authority or may, notwithstanding the motion, require appropriate persons to appear as may be necessary to have full settlement authority at the conference. Any adjunct settlement judge may defer such determination to the magistrate judge or district judge then supervising the adjunct settlement judge program.

(f) Submission of Written Settlement Conference Statements. A settlement statement shall be submitted to the settlement judge and served on opposing counsel at least seven (7) days preceding the date of the settlement conference unless otherwise ordered by the Court. It shall concisely summarize the parties' claims/defenses/counterclaims, etc., the parties' views concerning factual issues, issues of law, liability, damages or relief requested. The statement shall not exceed five (5) pages in length, shall conform to the format requirements set forth in the Local Rules, but shall not be filed in the case or made part of the Court file.

(g) The Settlement Conference Process. Prior to settlement conference, the parties shall discuss settlement with their respective clients and opposing counsel (or pro se parties) so that the issues and bounds of settlement have been explored in advance of the settlement conference.

The parties, their representatives and attorneys are required to be completely candid with the settlement judge so that the judge may properly guide settlement discussions. Pertinent evidence to be offered at trial, documents or otherwise, may be brought to the settlement conference for presentation if particularly relevant.

(h) **Authority of Settlement Judge.** The settlement judge may excuse attendance of any attorney, party or party's representative; meet jointly or individually with counsel, alone or with parties or persons or representatives interested in the outcome of the case without the presence of counsel; and issue such other and additional requirements as shall seem proper, including follow-up sessions telephonically or otherwise, in order to expedite an amicable resolution of the case.

(i) **Confidentiality.** The settlement judge, all counsel and parties, and any other persons attending the settlement conference shall treat as confidential all written and oral communications made in connection with or during any settlement conference. Neither the settlement conference statements nor communications during the conference with the settlement judge may be used by any party in the trial of the case. No communication relating to or occurring at a court-ordered settlement conference may be used in any aspect of any litigation except proceedings to enforce a settlement agreed to at the conference.

(j) **Conclusion of the Settlement Conference.** At the conclusion of the settlement conference, the settlement judge shall notify the Court whether the case did or did not settle. If the case settled, counsel shall prepare and file the appropriate dismissal or closing papers.

(k) **Other Alternative Methods.** The Court may, in its discretion, set any civil case for summary jury trial, mini-trial, executive summary jury trial (summary jury trial where chief executive officers of corporate parties participate as part of a three-judge trial panel), mediation, arbitration, or other method of alternative dispute resolution as the Court may deem proper, so long as due process is not abrogated or impaired.

V. DEPOSITIONS AND DISCOVERY.

LCvR26.1 Compliance with Requirements Under FED. R. CIV. P. 26.

(a) **Initial Disclosures.** Parties shall make the initial disclosures required by FED.R.CIV.P. 26(a)(1) unless in the Joint Status Report required by LCvR 16.1 they specifically stipulate to waive initial disclosures.

(b) **Implementation.** The Court shall from time to time promulgate such rules as may be necessary to implement the mandatory disclosure requirements in FED.R.CIV.P. 26(a). These rules will be available in the Court Clerk's office and on the Court's website at www.oknd.uscourts.gov.

LCvR 26.2 Disclosure of Insurance Agreements.

A party shall, without awaiting a discovery request, provide any insurance agreement to the other parties under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy such a judgment. Full and complete copies of such insurance agreements shall be served on all other parties along with the disclosing party's answer, reply, or motion filed pursuant to Rule 12(b) of the Federal Rules of Civil Procedure.

LCvR26.3 Discovery Material Not to be Filed.

Depositions, interrogatories, requests for documents, requests for admissions, and answers and responses thereto shall not be filed with the Clerk unless on order of the Court or unless they are attached to a motion, response thereto, or are needed for use in a trial or hearing.

LCvR26.4 Privilege Log.

(a) In accordance with FED.R.CIV.P. 26(b), when a claim of privilege or work product protection is asserted in response to a discovery request for documents, the party asserting the privilege or protection shall provide the following information with respect to each document in the form of a privilege log: the type of document; the general subject matter of the document; the date of the document; the author of the document, whether or not the author is a lawyer; and each recipient of the document, whether or not a recipient is a lawyer. This rule shall apply only to document requests.

(b) If information called for by one or more of the foregoing categories is itself privileged, it need not be disclosed. However, the existence of the document and any non-privileged information called for by the other categories must be disclosed. This rule requires preparation of a privilege log with respect to all documents withheld on the basis of a claim of privilege or work product protection except the following: written communications between a party and its trial counsel after commencement of the action and the work product material created after commencement of the action.